

Amendments to the Drawings:

The attached drawing sheet includes a change to Fig. 1. This sheet, which includes Fig. 1, replaces the original sheet including Fig. 1. In Fig. 1, the reference number for the adjustable polarizer has been changed from "37" to "27" so as to be consistent with the specification. No new matter is added by this change.

Attachment: Replacement sheets

REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

Claims 5 and 30 have been canceled in this paper. Claims 1, 6, 7, 31 and 32 have been amended in this paper. New claim 37 has been added in this paper. Therefore, claims 1-4, 6-29 and 31-37 are pending and are under active consideration.

Claims 1-35 stand rejected under 35 U.S.C. 101 “as claiming the same invention as that of claim 1 of prior U.S. Patent No. 6587711. This is a double patenting rejection.”

Applicants respectfully traverse the subject rejection. For a statutory double patenting rejection to be proper, the claims in question must co-extensive in scope. This is clearly not the case in the present situation. This is because, amongst other things, claim 1 of U.S. Patent No. 6,587,711 specifies that the “means for transmitting the output from said light detector to said computer...comprises a wireless transmitter coupled to said light detector and a wireless receiver coupled to said computer.” By contrast, none of the claims of the instant application are limited to such a wireless arrangement for the transmitting means, as both wired and wireless embodiments are covered.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 1-35 stand rejected “on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6587711,” and claim 36 stands rejected “on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of U.S. Patent No. 6587711 in view of Farkas, et al (US 2004/0097790).”

Without acquiescing in the propriety of the subject rejections, Applicants are submitting herewith a Terminal Disclaimer that obviates the rejections.

Accordingly, for at least the above reasons, the subject rejections should be withdrawn.

Claims 1, 3, 4, 10-18, 21, 24, 25, 26, 28 and 29 stand rejected under 35 U.S.C. 102(e) “as being anticipated by Cook, et al (US 2002/01111546).”

Applicants respectfully traverse the subject rejection. Claims 3, 4, 10-18, 21, 24, 25, 26, 28 and 29 depend from claim 1. Claim 1 has been amended herein to include the limitations of canceled claim 5. As such, claim 1 now recites “[a]n apparatus suitable for use in examining skin, mucosa and cervical tissues for the purpose of detecting cancer and precancerous conditions therein, said apparatus comprising:

- (a) first illuminating means for illuminating an object with polarized light of a first wavelength;
- (b) second illuminating means for illuminating an object with polarized light of a second wavelength, said second wavelength being different from said first wavelength;
- (c) a control coupled to each of said first illuminating means and said second illuminating means to permit selective actuation of said first illuminating means and said second illuminating means;
- (d) a light detector for outputting an electrical signal in response to light incident thereonto;
- (e) an adjustable polarizer positioned between said light detector and the illuminated object;

(f) optics for imaging light emitted from the illuminated object onto said light detector, wherein said optics comprises confocal optics;

(g) a computer for processing the output from said light detector;

(h) means for transmitting the output from said light detector to said computer; and

(i) a display for displaying the results of said processing by said computer."

Thus amended, Cook et al. fails to anticipate or to render obvious claim 1 for at least the reason that Cook et al. fails to teach or to suggest optics comprising confocal optics. Moreover, as will be discussed further below, there is no basis for combining Cook et al. and Farkas et al. in the manner proposed by the Patent Office so as to arrive at the claimed invention.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claim 2 stands rejected under 35 U.S.C. 103(a) "as being unpatentable over Cook in view of Perkins, et al (US 6106457)."

Applicants respectfully traverse the subject rejection. Claim 2 depends from claim 1. Claim 1 is patentable over Cook et al. for at least the reasons discussed above. Perkins et al. fails to cure all of the deficiencies of Cook et al. with respect to claim 1. Therefore, based at least on its dependency from claim 1, claim 2 is patentable over the combination of Cook et al. and Perkins et al.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 5-9, 30-34 and 36 stand rejected under 35 U.S.C. 103(a) "as being unpatentable over Cook in view of Farkas, et al (US 2004/0097790)." In support of the rejection, the Patent Office states the following:

Cook, as discussed above, substantially discloses the invention as claimed, however fails to explicitly disclose the use of confocal optics and moving said optics to permit a variable lens distance. Farkas also discloses an endoscope for examining tissue and further teaches a movable lens system (paragraph 15) that provides the ability to image the surface or subsurface (paragraph 13). The lens tube is axially movable relative to the stage from a retracted position to an extended position (figures 5a and 5b). A confocal lens assembly is used in the housing to provide high resolution imaging of both the surface layer and the layers beneath the surface (paragraph 13). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the claims of the prior patent in light of the teachings in the reference by Farkas to include a moving lens system, as Farkas states it is desirable variable magnification of tissue within a body cavity (paragraph 8).

Applicants respectfully traverse the subject rejection. (Insofar as the subject rejection pertains to claim 5, the comments below apply to claim 1, which has been amended to include the limitations of canceled claim 5.)

As best understood by Applicants, the Patent Office is apparently conceding that Cook et al. fails to disclose the use of confocal optics. Notwithstanding the above, the Patent Office is apparently contending that this missing teaching is present in Farkas et al. and that it would have been obvious to one of ordinary skill in the art to combine the teachings of Cook et al. and Farkas et al. to arrive at the claimed invention. Applicants respectfully disagree and submit that, based on the substantial differences between the respective systems of Cook et al. and Farkas et al., a person of ordinary skill in the art would not have been motivated to make the modification proposed by the Patent Office.

Cook et al. is directed at a system for sub-surface imaging of a subject's vascular system. It is a principal teaching of Cook et al. that an illumination technique be used in which the illuminated region of the image plane falls entirely outside the field of view of an imaging system's

objective. By contrast, Farkas et al. discloses a system that works on an entirely different premise, namely, the illuminated region of the image plane falls within the field of view of the imaging system. Given these types of differences between the two systems, one of ordinary skill in the art would not have been motivated to modify the Cook system to include the confocal optics of Farkas et al.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 19-20, 22-23 and 26-27 stand rejected under 35 U.S.C. 103(a) “as being unpatentable over Cook, et al.”

Applicants respectfully traverse the subject rejection. All of claims 19-20, 22-23 and 26-27 depend from claim 1. Claim 1 is patentable over Cook et al. for at least the reasons discussed above. Therefore, based at least on their respective dependencies from claim 1, claims 19-20, 22-23 and 26-27 are patentable over Cook et al.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claim 35 stands rejected under 35 U.S.C. 103(a) “as being unpatentable over Cook in view of Gorti (US 5954658).”

Applicants respectfully traverse the subject rejection. Claim 35 depends from claim 1. Claim 1 is patentable over Cook et al. for at least the reasons discussed above. Gorti fails to cure all of the deficiencies of Cook et al. with respect to claim 1. Therefore, based at least on its dependency from claim 1, claim 35 is patentable over the combination of Cook et al. and Gorti.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

New claim 37 depends from claim 2 and is patentable for at least the same reasons as claim

2.

Fig. 1 of the drawings has been amended so that the reference number for the adjustable polarizer is consistent with that given in the specification.

In conclusion, it is respectfully submitted that the present application is in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 6, 2006.

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